



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,626	10/12/2000	James A. Satchell JR.	TPP31333	6147

7590 05/20/2004

Stevens, Davis, Miller & Mosher
1615 L St., N.W., Suite 850
Washington, DC 20036

EXAMINER

GARLAND, STEVEN R

ART UNIT	PAPER NUMBER
----------	--------------

2125

DATE MAILED: 05/20/2004

30

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,626

Applicant(s)

SATCHELL ET AL.

Examiner

Steven R Garland

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004 and 25 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 31-41 and 60-134 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 31-41, 60-134 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 114-130 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc. v. Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement*, 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997); *Ball Corp. v. United States*, 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope surrendered in the application for the patent cannot be recaptured by the filing of the present reissue application.

The Pannu court stated that the Clement test for determining the presence of recapture or lack thereof as a three step analysis:

Application of the recapture rule is a three step process. The first step is to "determine whether and in what 'aspect' the reissue claims are broader than the patent claims." ... "The second step is to determine whether the broader aspects of the reissued claim related to surrendered subject matter." ... "Finally, the court must determine whether the reissued claims were materially narrowed in other aspects to avoid the recapture rule. Pannu 59 USPQ2d at 1600.

As to the first step, claims 114-130 are all method claims which are all broader than the apparatus claims 1-12 of the patent. In the following explanation claim 114 is used as an example and a similar analysis can be made for the other rejected claims.

As to the second step, Claim 1, as originally filed in the patent application, was to

“a vending machine for sale of items selected by a customer comprising:

a storage unit for storing a plurality of items for sale and a dispensing mechanism for dispensing the items from the storage unit;

a selector device for selecting one or more of said items for sale by the customer;

a payment-control device for receiving and detecting an amount of payment required for the sale of an item and for actuating said dispensing mechanism when a payment is received to dispense a selected item; and

a computer assembly connected to said storage and dispensing unit, selector device and payment control device and having a computer, video display screen and a modem, whereby said computer is connected to and actuated by said selector device for automatically connecting said computer to a pre-selected internet site and automatically displaying information obtained from said internet site on said video screen for viewing by the customer said computer assembly further including customer actuating means for enabling a customer to interface with said computer.”

Claims 1-9 were rejected under 35 U.S.C. 103 in the office action 10/6/97.

In response to the rejection claim 1 was amended to recite a vending machine having a door for retrofitting an existing vending machine consistent with allowable claim 10 in the amendment of 12/30/97.

Claims as broad or broader than the scope of original claim 1 are then surrendered subject matter and can not be recaptured.

As to the final step, for example new reissue claim 114 is directed to " A method of providing a customer with access to the Internet via a vending machine, said method comprising

1.) providing a vending machine to dispense at least one item selected by a customer for purchase;

2.) said purchase of said at least one item permits the customer to be operatively connectable via the Internet to websites;

3.) allowing access to the websites by said customer, said access comprising at least one of inserting money or credit card information into the vending machine and customer input of data to the computer. "

New method claim 114 is clearly broader in scope than the surrendered subject matter of original claim 1, since specific details of the vending machine are not given such as whether a modem is used. Further reissue claim 114 entirely omits the retrofitting door limitation that was added to overcome the art rejection. The claim also adds limitations that are not related to the previously surrendered subject matter in the form of limitations of a purchase allows the customer to be operatively connected to the

Internet. Such claims are barred by the recapture rule. See *In re Clement*, 131 F.3d at 1470, 45 USPQ2d at 1165 (Fed. Cir. 1997).

The retrofitting door aspects have been omitted from these claims resulting in improper recapture. The retrofitting door was indicated as being the reason for allowance of originally numbered claim 10 in the parent patent in the office action of 10/6/97. Further in the amendment filed 12/30/97 by the applicant it was stated that claim 1, the only other independent claim in the application, was being amended to recite a vending machine having a door for retrofitting an existing vending machine consistent with allowable claim 10. The response further stated that in view of the indication of Allowability of claim 10, these amendments are submitted to place claim 1 in condition for allowance with all the other remaining claims being dependent on claim 1 as amended. The application was then allowed without additional amendment and no additional comments in regards to the allowed claims were made by the applicants. All the rejected claims fail to claim the retrofitting door.

In response to applicant's arguments, originally filed claims 1-9 in the patent were amended to avoid an art rejection. Applicant can not now broaden the claims to recapture subject matter broader than that previously surrendered in original claims 1-9 of the parent patent application. See *In re Clement*, 131 F.3d at 1470, 45 USPQ2d at 1165 (Fed. Cir. 1997).

The Ex parte Eggert, Appeal No. 2001-0790 (Bd. Pat. & Inter. May29, 2003) decision cited by applicant has been noted, but the *Pannu v. Storz Instruments Inc.*,

258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001) decision provides the proper guidance for determining if recapture exists.

2. The declaration filed on 2/23/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the Sokal, Brown, and Small references.

3. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Sokal, Brown, and Small references to either a constructive reduction to practice or an actual reduction to practice. The supplemental declaration by Dora Stroud shows conception, however diligence is not shown for the period prior to the filing date of the Sokal, Brown, Small, and Hill, III references to the constructive reduction to practice by the filing of the 08/715232 application.

4. As a particular example diligence has not been shown for the period from just prior to the filing date of 10/10/95 of the Sokal reference to the March 19, 1996 rejection in the 08/429583 application, after the rejection of March 19, 1996 it appears applicant was diligent in filing the 08/715232 application which was the constructive reduction to practice and contained Internet features as originally filed. The entire time period from just prior to the filing date of 10/10/95 of the Sokal reference to the March 19, 1996 rejection must be accounted for by either affirmative acts or acceptable excuses to overcome the Sokal reference. See MPEP 2138.06.

5. The amendment filed 12/26/95 in parent application 08/429,583 is not either an actual reduction to practice or a constructive reduction to practice as in the case of filing an U.S. patent application. The filing of the U.S. 08/715,232 application is the constructive reduction to practice. Note MPEP sections 715-715.07(c).

Note is also taken that in the papers submitted 12/26/95 in the 08/429,583 application that the cover sheet specifically refers to "modifications, amendments, and supplements containing additional subject matter" these papers introduce the term Internet and also introduce new matter which is not supported by the original 08/429,583 application as filed.

Further in regards to the amendment filed 12/26/95 in the 08/429,583 application, the only places the internet/ world wide web are mentioned are in paragraphs 2(2) and 3 on page 3; paragraph 5(B) and 7(B) on page 4; paragraph 14 on page 5a; page 6; and element (5B) on page 2 of the drawings also submitted on 12/26/95. These parts of the amendment fail to establish a reduction to practice prior to the Sokal 5,953,504, Brown 5,445,295, Small 5,513,117, and Hill et al. 5,646,819 effective filing dates all of which are prior to the 12/26/95 date.

6. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

Additional errors have been identified and are being corrected in this reissue, such as the addition of new claims 131-134.

7. In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

8. Claims 1-12, 31-41, 60-134 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR

1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 31-41, 60-64, 66, 68, 69, 71-108, 110-112, and 114-134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradt et al. 4,839,505 in view of Sokal et al. 5,953,504.

Bradt et al. teaches a vending machine with a hinged door having a computer, modem, display, credit card reader, and bill or coin acceptor mounted on the door. Bradt also teaches that the computer can send and receive information from a remote site such as the owner or by linking to a credit card company. Bradt further teaches that the dispensed items can be video tapes, music disks, or other items, dispensing the items through the door, storing the items in the machine, use of a keypad, and advertising when the machine is available. See the abstract; figures; col. 1, lines 9-13; col. 2, lines 26-42; col. 7, line 29 to col. 8, line 31; col. 9, lines 27-60; col. 10, lines 19-45; col. 12, lines 3-18, col. 13, line 66 to col. 13, line 68; col. 18, lines 30-58; col. 19, lines 49-55; col. 24, lines 55-60; col. 33, lines 52-65; and also note fig. 2.

Bradt however does not specifically teach Internet access using a vending machine.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse, connecting to a business web site. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

It would have been obvious to one of ordinary skill in the art to modify Bradt in view of Sokal and modify the vending machine and its door to allow the Internet

access functions taught by Sokal. This would allow a wider range of transactions and increase the revenue from the machine.

Bradt and Sokal however do not expressly state the audio/video is uploaded/downloaded to the recording device or that money is dispensed. Sokal does teach reading and mastering a CD-ROM.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to allow downloading/uploading audio/visual information so that information could be easily shared or saved as a permanent record.

Further it would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to dispense money in the form of returning change for a purchase if for no other reason than to prevent vandalism to the machine.

In response to applicant's arguments, Bradt as explained above teaches various door features including dispensing an item, while Sokal is relied on for teaching Internet access including purchasing Internet access time through a vending machine. Bradt already allows uploading/downloading to various databases (col. 13, lines 47-68) and it would have been obvious to one of ordinary skill in the art to modify Bradt in view of Sokal to also vend Internet access for increased sales. The additional revenue generated by the more diverse functions of Bradt/Sokal could be attained at a marginal increased cost to the owner/operator since most if not all the necessary hardware would already be present in the machine door of Bradt.

In regards to the arguments about claims 114-126, no physical item is required to be dispensed by parent claim 114, the purchased time for Internet access (note col. 1, lines 44-48 of Sokal) can be the dispensed item in the Bradt/Sokal combination.

11. Claims 65 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradt et al. 4,839,505 in view of Sokal et al. 5,953,504 as applied to claims 31-41, 60-64, 66, 68, 69, 71-108, 110-112, and 114-134 above, and further in view of Brown 5,445,295.

Bradt et al. teaches a vending machine with a hinged door having a computer, modem, display, credit card reader, and bill or coin acceptor mounted on the door. Bradt also teaches that the computer can send and receive information from a remote site such as the owner or by linking to a credit card company. Bradt further teaches that the dispensed items can be video tapes, music disks, or other items, dispensing the items through the door, storing the items in the machine, use of a keypad, and advertising when the machine is available. See the abstract; figures; col. 1, lines 9-13; col. 2, lines 26-42; col. 7, line 29 to col. 8, line 31; col. 9, lines 27-60; col. 10, lines 19-45; col. 12, lines 3-18, col. 13, line 66 to col. 13, line 68; col. 18, lines 30-58; col. 19, lines 49-55; col. 24, lines 55-60; col. 33, lines 52-65; and also note fig. 2.

Bradt however does not specifically teach Internet access using a vending machine.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page

which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse or price information, connecting to a business web site or other sites. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

It would have been obvious to one of ordinary skill in the art to modify Bradt in view of Sokal and modify the vending machine and its door to allow the Internet access functions taught by Sokal. This would allow a wider range of transactions and increase the revenue from the machine.

Bradt and Sokal however do not expressly state the audio/video is uploaded/downloaded to the recording device or that money is dispensed. Sokal does teach reading and mastering a CD-ROM.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to allow downloading/uploading audio/visual information to the CD-ROM or floppy disc so that information could be easily shared or saved as a permanent record.

Further it would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to dispense money in the form of returning change for a purchase if for no other reason than to prevent vandalism to the machine.

Bradt and Sokal however do not teach the use of plural speakers or headphones. Sokal does teach the use of a speaker.

Brown teaches the alternatives of headphones or speakers in a vending machine. See col. 5, lines 1-5.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal in view of Brown and provide the device with plural speakers for improved sound or headphones for private listening and to reduce background noise.

12. Claims 67 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradt et al. 4,839,505 in view of Sokal et al. 5,953,504 as applied to claims 31-41, 60-64, 66, 68, 69, 71-108, 110-112, and 114-134 above, and further in view of Small 5,513,117.

Bradt et al. teaches a vending machine with a hinged door having a computer, modem, display, credit card reader, and bill or coin acceptor mounted on the door. Bradt also teaches that the computer can send and receive information from a remote site such as the owner or by linking to a credit card company. Bradt further teaches that the dispensed items can be video tapes, music disks, or other items, dispensing the items through the door, storing the items in the machine, use of a keypad, and advertising when the machine is available. See the abstract; figures; col. 1, lines 9-13; col. 2, lines 26-42; col. 7, line 29 to col. 8, line 31; col. 9, lines 27-60; col. 10, lines 19-45; col. 12, lines 3-18, col. 13, line 66 to col. 13, line 68; col. 18, lines 30-58; col. 19, lines 49-55; col. 24, lines 55-60; col. 33, lines 52-65; and also note fig. 2.

Bradt however does not specifically teach Internet access using a vending machine.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page

Art Unit: 2125

which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse or price information, connecting to a business web site or other sites. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

It would have been obvious to one of ordinary skill in the art to modify Bradt in view of Sokal and modify the vending machine and its door to allow the Internet access functions taught by Sokal. This would allow a wider range of transactions and increase the revenue from the machine.

Bradt and Sokal however do not expressly state the audio/video is uploaded/downloaded to the recording device or that money is dispensed. Sokal does teach reading and mastering a CD-ROM.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to allow downloading/uploading audio/visual information to the CD-ROM or floppy disc so that information could be easily shared or saved as a permanent record.

Further it would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to dispense money in the form of returning change for a purchase if for no other reason than to prevent vandalism to the machine.

Bradt and Sokal however do not teach the use of a mouse or trackball.

Small teaches the alternatives of a mouse or trackball for data input into a vending machine. See col. 6, lines 60-65.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal in view of Small and allow for data entry using a mouse for ease in selecting items.

13. Claim 109 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bradt et al. 4,839,505 in view of Sokal et al. 5,953,504 as applied to claims 31-41, 60-64, 66, 68, 69, 71-108, 110-112, and 114-134 above, and further in view of Brandes et al. 5,090,589.

Bradt et al. teaches a vending machine with a hinged door having a computer, modem, display, credit card reader, and bill or coin acceptor mounted on the door. Bradt also teaches that the computer can send and receive information from a remote site such as the owner or by linking to a credit card company. Bradt further teaches that the dispensed items can be video tapes, music disks, or other items, dispensing the items through the door, storing the items in the machine, use of a keypad, and advertising when the machine is available. See the abstract; figures; col. 1, lines 9-13; col. 2, lines 26-42; col. 7, line 29 to col. 8, line 31; col. 9, lines 27-60; col. 10, lines 19-45; col. 12, lines 3-18, col. 13, line 66 to col. 13, line 68; col. 18, lines 30-58; col. 19, lines 49-55; col. 24, lines 55-60; col. 33, lines 52-65; and also note fig. 2.

Bradt however does not specifically teach Internet access using a vending machine.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page

which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse or price information, connecting to a business web site or other site. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

It would have been obvious to one of ordinary skill in the art to modify Bradt in view of Sokal and modify the vending machine and its door to allow the Internet access functions taught by Sokal. This would allow a wider range of transactions and increase the revenue from the machine.

Bradt and Sokal however do not expressly state the audio/video is uploaded/downloaded to the recording device or that money is dispensed. Sokal does teach reading and mastering a CD-ROM.

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to allow downloading/uploading audio/visual information to the CD-ROM or floppy disc so that information could be easily shared or saved as a permanent record.

Further it would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal to dispense money in the form of returning change for a purchase if for no other reason than to prevent vandalism to the machine.

Bradt and Sokal however do not teach the use of backlighting.

Brandes et al. teach the use of a plate and backlighting on a vending machine. See the abstract and col. 4, lines 34-43.

Art Unit: 2125

It would have been obvious to one of ordinary skill in the art to modify Bradt and Sokal in view of Brandes and use backlighting and a plate on the front of the vending machine to promote use of the machine and allow the controls to be conveniently grouped.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 114-122, 124-127, 129, and 130 are rejected under 35 U.S.C. 102(e) as being anticipated by Sokal et al. 5,953,504.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse or price information, connecting to a business web site or other site. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

In response to applicant's arguments, as noted above the selected item can simply be the purchase of Internet access time which is a vending function. See col. 1, lines 44-48 of Sokal.

16. Claim 123 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sokal et al. 5,953,504.

Sokal et al. teaches allowing public access to the Internet, use of a computer, payment means, use of removable memory means, display, key pad, camera, microphone, speaker, modem, attracting customers, server, display of a home page which requires the use of a browser, downloading information, sending receiving audio/video information, CD-ROM reading/mastering, display time to browse or price information, connecting to a business web site or other site. See the abstract; figures; col. 1, line 6 to col. 2, line 25; col. 3, line 8 to col. 5, line 23; col. 6, line 26 to col. 7, line 12; and the claims.

Sokal however does not specifically state that the memory (disc or CD) can be used transmit data from the user's own medium.

It would have been obvious to one of ordinary skill in the art to modify Sokal to allow the customer to use the reader of drive to read the customers own inserted memory and to transmit the data over the Internet. This would allow faster input of a large amount of data and reduce the cost to customer by speeding up the input of data.

In response to applicant's arguments, as noted above the selected item can simply be the purchase of Internet access time which is a vending function.. Col. 1, lines 44-48 of Sokal.

17. In response to the amendment of 2/23/04 and the remarks on page 34 of the amendment, the rejection of claims 114,115,117,118, 122,124, and 125 under 35 U.S.C. 102(b) as being anticipated by Huegel 5,239,480 is withdrawn.

18. Claims 127,129, and 130 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Huegel 5,239,480.

Huegel teaches a vending machine and computer, audio/video advertising, use of a credit card, use of a modem and server to connect to remote sites. See the figures, col. 2, line 28 to col. 3, line 3; col. 5, line 1 to col. 6, line 64; col. 8, lines 39-44; col. 9, lines 34-54.

Huegel however does not specifically mention the term websites, but does teach remote access of sites.

These remote sites of Huegel are obviously if not inherently "websites " give the broad Internet definition set forth on page 4 of the instant specification in which the Internet term is said to refer to numerous computer databases and on-line services available for public access for retrieving and/or sending information. The remote sites of Huegel by this broad definition would be websites.

19. Claims 114-118,122,124, 125, 126, and 127 are rejected under 35 U.S.C. 102(e) as being anticipated by Mettke 5,602,905.

Mettke teaches vending internet services; use of a computer, modem, credit card, keyboard, monitor, and a telephone which inherently has a speaker and microphone, See the abstract; figures; col. 2, lines 3-67; and the claims.

In response to applicant's arguments, while Mettke does not use the term "vending machine", the machine still vends services such as time to access the Internet. See the abstract. Mettke also provides a computer (CPU) see col. 2, lines 39-65. Note is taken of the supporting statements of Kolls 5,637,845 as to what types of machines are regarded as vending machines. See col. 1, lines 23-27 and col. 4, lines 27-34 of Kolls.

In response to applicant's arguments Mettke clearly teaches Internet access which inherently would allow website access. See col. 2, lines 10-15 of Mettke for example.

Applicant's amendment and arguments on page 35 in the response of 2/23/04 in regards to rejection of claim 130 under 35 U.S.C. 102 in view Mettke are persuasive.

20. Claim 120 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mettke 5,602,905 in view of Ishizaki et al. 5,699,328 (previously cited in paper no. 5).

Mettke teaches vending internet services; use of a computer, modem, credit card, keyboard, monitor, and a telephone which inherently has a speaker and microphone, See the abstract; figures; col. 2, lines 3-67; and the claims.

Mettke while allowing printing of information does not provide for storing the information on a medium.

Ishizaki teaches allowing information to be stored on a floppy disc. See col. 13, line 1 to col. 14, line 38.

It would have been obvious to one of ordinary skill in the art to modify Mettke in view of Ishizaki and allow the alternative of storing the information on a floppy disc. This

would allow faster writing of the information and also allow the information to be used on a different system without having to manually enter the data.

In response to applicant's arguments Mettke clearly teaches Internet access which inherently would allow website access. See col. 2, lines 10-15 of Mettke for example.

21. Claims 114-118, 122, 124, 125, 127, and 130 are rejected under 35 U.S.C. 102(e) as being anticipated by Kolls 5,637,845.

Kolls teaches a vending machine for allowing Internet access. Kolls teaches the use of a computer, monitor, memory, speaker, card reader, keypad, modem, tracking use time, purchasing access time to the Internet, use of a credit card. See col. 1, lines 23-28; col. 4, lines 27-34; col. 6, lines 10-34; col. 15, line 23 to col. 20, line 61; and the figures.

In response to applicant's arguments, Kolls provides for purchasing time to access the Internet as noted in the above sections, vending copies, etc. Note figures 13 on and col. 17, lines 40-65 for example.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R Garland whose telephone number is 703-305-9759. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

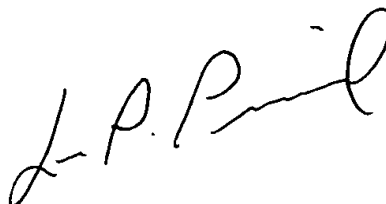
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2125

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sr-l

Steven R Garland
Examiner
Art Unit 2125



LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100